



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

July 5, 2017

Terence M. King
President of Board of Directors
Chino Basin Water Conservation District
1216 North Quince Avenue
Upland, CA 91786-3139

Re: Your Request for Advice
Our File No. A-17-143

Dear Mr. King:

This letter responds to your request for advice regarding gift and conflict of interest provisions of the Political Reform Act (the "Act").¹ Please note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate.

QUESTIONS

1. Are benefits provided to you and your wife at "Supervisor Hagman's VIP Event" gifts subject to limits or reporting under the Act?
2. If you and your wife's attendance at the VIP Event and the benefits provided at the event are gifts subject to gift reporting or limits, how would those gifts be valued, and who would be the source of those gifts, under the Act?

CONCLUSIONS

1. Yes. You and your wife's attendance at the VIP Event and any personal benefits provided at the event are gifts subject to limits and reporting under the Act.
2. You and your wife's attendance at the VIP Event and any personal benefits provided to you and your wife that were available to all guests attending the VIP Event are valued at your pro-rata share of their cost, and Supervisor Hagman is the source of those gifts.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

FACTS

You are an elected Member of the Chino Basin Water Conservation District Board of Directors. On April 22, 2017, you received an email from one of the District's administrative assistants advising that San Bernardino County Supervisor Curt Hagman had invited you and a guest to attend a "VIP reception" honoring the 60th Anniversary of the Planes of Fame Air Museum at the Planes of Fame Air Museum located at the Chino Airport on May 5, 2017 from 5pm to 7:30pm, the day before the 2017 Planes of Fame Air Show was to be held at that location. Based on the VIP Event materials submitted, it appears that the VIP Event was invitation only and closed to the general public. Because you are a District Board Member, the District's conflict of interest code requires you to disclose all income including gifts.

On April 26, 2017, you ordered tickets for "Supervisor Hagman's VIP Event" through Eventbrite, an internet-based, third-party event organizer, and were issued two free tickets to the VIP Event, one for you and one for your wife. The tickets had no face value. Under "Payment Status," the tickets stated that they were "Free Order." On May 3, 2017, Supervisor Hagman emailed you with details about the VIP Event and provided a "VIP Parking Pass" for parking at the Chino Airport during the VIP Event.

On May 5, 2017, you and your wife attended the VIP Event. A "Cinco de Mayo" dinner was provided to the attendees, including you and your wife, by the Chino Valley Professional Firefighter Association and the Ontario Professional Firefighter Association.

ANALYSIS

The Act defines a "gift" as "any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status." (Section 82028(a).)

To reduce improper influences on public officials, the Act regulates a local public official's receipt of gift in three ways:

- **Gift Limit of \$470:** The Act places limitations on the acceptance of gifts by certain public officials. The current limit is \$470 from a single source in a calendar year. (Section 89503; Regulation 18940.2.)
- **Gift Reporting:** The Act also imposes reporting obligations on certain public officials requiring that any gift (or any gifts that aggregate to \$50 or more from the same source) received during the calendar year are disclosed on the official's statement of economic interests. (Sections 87200 et seq.)
- **Conflict of Interest Disqualification:** The Act prohibits any public official from making, participating in making, or using his or her position to influence the outcome of a governmental decision involving the donor of a gift or gifts with an aggregate value of \$470 or more provided to, received by, or promised to the official within 12 months prior to the date the decisions is made. (Sections 87100 and 87103(e).)

As a result of you and your wife's attendance at the Supervisor Hagman's VIP Event, you received admission to the VIP Event, a VIP Parking Pass for the event, the opportunity to get a close-up view of the Planes of Fame Air Museum's vintage aircraft, and a Cinco de Mayo dinner. Therefore, your attendance at the VIP Event conferred personal benefits to you, and there is no indication from the facts presented that you provided consideration of equal or greater value in exchange for your attendance. Accordingly, you and your wife's attendance at Supervisor Hagman's VIP Event and any personal benefits provided at the event are gifts subject to limits and reporting under the Act, and Supervisor Hagman is the source of those gifts.²

Valuation

Generally, a gift is valued at its fair market value as of the date of receipt. (Regulation 18946.) However, Regulation 18946.2 sets forth an exception to the general gift-valuation rule for an official and one guest of the official's attendance at an invitation-only event, and provides in pertinent part as follows:

"(a) The valuation of attendance at an invitation-only event under this regulation applies to the official and one guest of the official attending the event.

"(b) Invitation-Only Events. Except as provided in subdivisions (d) through (f) of this regulation, and in Regulation 18946.4, the admission value of the benefit received by an official and one guest who attend an invitation-only event, is the official's and the guest's pro-rata share of the cost of the food, catering services, entertainment, and any item provided to the official and guest that is available to all guests attending the event. Any other specific benefit provided to the official and guest at the event, such as golf green fees, is valued at fair market value.

"(c) "Pro-rata share of the cost of the food, catering services, entertainment, and any item provided to the official." The term "pro-rata share of the cost of the food, catering services, entertainment, and any item provided to the official and guest" means the cost of all food, catering services, entertainment, and any specific item presented to all attendees as part of the event, divided by the number of attendees."

² Note that Regulation 18945(a) provides: "The person who makes the gift to the official(s) is the source of the gift unless that person is acting as an intermediary. The person is acting as an intermediary for the source of the gift when the gift to the official was provided under any of the following conditions: (1) the person receives a payment from a source and the payment is made to the official after the source identifies the official as the intended recipient of the gift; (2) the person receives a payment from a source after soliciting the payment with the understanding that the payment will be used for the sole or primary purpose of making a gift to an official; or (3) the person receives a payment from a source after the payment was solicited by the official or the official's agent for the purpose of making a gift to the official." Based on the facts presented, Supervisor Hagman is the source of the Cinco de Mayo dinner because it was a personal benefit you received due to your attendance of his VIP Event. However, if additional facts indicate that the Chino Valley Professional Firefighter Association and the Ontario Professional Firefighter Association were the source of the dinner under Regulation 18945(a), you should report those organizations as the source of the dinner rather than the Supervisor.

Thus, pursuant to Regulation 18946.2, the value of the benefit received by you and your wife at Supervisor Hagman's VIP Event is the pro-rata share of the cost of the food, catering services, entertainment, and any item provided to you and your wife that was available to all guests in attendance. And any other personal benefit provided to you and your wife at the VIP Event would be valued at its fair-market value.

Accordingly, you should contact Supervisor Hagman to obtain the information necessary to calculate your pro-rata share of the cost of the food, catering services, entertainment, and any other item provided to you and your wife that was available to all guests in attendance at the VIP Event; assess the fair-market value of any other personal benefit you or your wife received at the VIP Event; and report these gifts on your next statement of economic interests.

Conflict of Interest Disqualification

As mentioned above, an official who receives a gift or gifts of \$470 or more within the 12 months prior to the decision at issue, may have a disqualifying financial interest in the donor of that gift or gifts under the Act. (Section 87103(d).) Therefore, the Act requires the official to disqualify himself or herself from voting or otherwise participating in a decision that would have a reasonably foreseeable material financial effect on the source of the gift or gifts. (Sections 87100 and 87103.) Thus, if an official accepts gifts valued at \$470 or more, that official may be prohibited from taking part in decisions affecting the source of those gifts.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Jack Woodside
General Counsel



By: Matthew F. Christy
Counsel, Legal Division

MFC:jgl